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Commonwealth Edison Company

Petition for expedited approval of
implementation of a market-based
alternative tariff, to become effective on or
before May 1, 2000, pursuant to Section 16-
112 of the Public Utilities Act.

CHIEF CLERK'S OFFICE
Docket No. 00-0259

BRIEF ON EXCEPTIONS OF PEOPLES ENERGY SERVICES CORPORATION

Pursuant to 83 Illinois Administrative Code Section 200.830, Peoples Energy Services Corporation ("PE Services"), by one of its attorneys, Timothy P. Walsh, hereby submits this Brief on Exceptions to the Hearing Examiner's Proposed Order ("HEPO") in the above-entitled cause which was served on April 21, 2000.

During this proceeding, PE Services supported the Commonwealth Edison Company's ("ComEd") market-based alternative tariff ("Rider PPO-MI"). The HEPO adopts, with modifications, ComEd's proposed Rider PPO-MI and related changes to existing riders. The two principal modifications are: 1) Rider PPO-MI will have a sunset provision in that it will cease to be effective at the conclusion of customers' May 2001 billing period; and, 2) contrary to ComEd's Petition, the HEPO would require ComEd to allow customers to choose Rider PPO-NFF subsequent to implementation of Rider PPO-MI and require the Rider PPO-NFF to continue indefinitely. PE Services continues to generally support ComEd's Petition. Accordingly, PE Services is concerned with any modifications that would cause ComEd to decline to implement a market index alternative. In addition, PE Services takes exception with one issue raised in the HEPO not included in ComEd's Petition as filed.

The HEPO explains that both MidAmerican Energy Company's ("MEC") and CMS Marketing, Services and Trading's ("CMS Marketing"), comments included "negotiated agreements" reached with ComEd relative to a Commission sponsored

modification pertaining to transition provisions. HEPO at 18. The transition provisions address new customers switching to Rate RCDS that may wish to select service under the existing Rider PPO-NFF or the new Rider PPO-MI. The transition provisions accommodate both customers that choose either the Rider PPO-MI or Rider PPO-NFF option under Rider RCDS either through ComEd under the PPO or through a Retail Energy Supplier.

The HEPO rejects the proposed transition provision and, in support, notes two problems with the MEC-CMS Marketing transition provisions both of which PE Services will address. First, the HEPO states that other parties have neither had the opportunity to review nor comment on the "negotiated agreement" between ComEd and both MEC and CMS Marketing. Id. However, the HEPO notes at page 2 that both CMS Marketing's and MEC's comments are part of the record. HEPO at 2. As such, all parties had an opportunity to review the comments and, depending on a party's and the HEPO's position, can choose to take a position during the briefing phase of the proceeding.


The second problem the HEPO raised is that neither MEC nor CMS Marketing explained the modifications or why they should be adopted. HEPO at 18. Here, PE Services believes that including transition provisions as ComEd filed in its Petition along with the MEC-CMS Marketing transition provision modifications in the same two-page document provides a self-explanatory rationale for the change. That is, the proposed rules are more liberal and allow customers more flexibility and time during the transition period from the old Rider PPO-NFF to the new Rider PPO-MI. Understanding the proposed modifications, i.e., liberalizing the transition rules, also makes an explanation for why the proposed modifications should be adopted self-evident. PE Services strongly supports the MEC-CMS Marketing transition proposal because the liberalized transition provisions benefit customers.

Consequently, PE Services recommends that language supporting and adopting the MEC-CMS Marketing proposal be incorporated into the order. Appendix A to this Brief on Exceptions sets forth, in a legislative fashion, PE Services' proposed revision to the discussion of the transition provisions contained in the HEPO.

Dated at Chicago, Illinois this 24th day of April 2000.

Respectfully submitted,

PEOPLES ENERGY SERVICES CORPORATION

By 

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Proposed Changes to Hearing Examiner's Proposed Order

For the reasons set forth in PE Services' Brief on Exceptions, language supporting and adopting the MEC-CMS Marketing "negotiated agreement" transition provisions should be incorporated into the order, as follows:

III. POSITIONS OF STAFF AND INTERVENORS

C. Parties Proposing Modifications to ComEd's Tariffs

3. MEC's and CMS Marketing's Position

The filings submitted by MEC and CMS Marketing appear to indicate that each has reached the exact same negotiated agreement with ComEd with respect to transition provisions for new customers on Rate RCDS. The filings indicate that ComEd and each of these parties would be willing to accept a Commission proposed modification to ComEd's original proposal that liberalizes the transition provisions for customers and is consistent with the modifications discussed in the filings of these parties.

The Commission first notes that all parties received the "negotiated agreements" between ComEd and these two parties and have not been had an opportunity to both reviewed by the other parties to this proceeding and these other parties have had no opportunity to comment on the provisions of the "negotiated agreements." In addition, the Commission notes that neither the comments, as submitted by both MEC nor and CMS Marketing, show the change from the original language as proposed by ComEd in its Petition and the proposed new procedure. either explain what the proposed modification are or why the proposed modification should be adopted. As a result Since the new procedure liberalizes the transition period language to the customers' benefit, the Commission ~~rejects~~ accepts the proposed modification contained in the filings of MEC and CMS Marketing. (HEPO at 18)

IV. COMMISSION CONCLUSIONS

With regard to the specifics of its proposed modifications to ComEd's proposed Rider PPO-MI, the Commission proposes two changes. First, that this tariff shall cease to be effective at the conclusion of the customer's May, 2001 billing period. Second, the tariff shall include the MEC-CMS Marketing proposed revisions to the transition provisions as discussed above in Section III.C.3. The Commission proposes no other modification to this tariff. Subsequent to the entry of an order in this proceeding, ComEd may petition the Commission to extend the applicability of Rider PPO-MI, either in its existing form or some other form. As noted above, ComEd says

the Commission is precluded by statute from ordering ComEd to modify any provision of Rider PPO-MI once it is approved. In light of the expedited schedule in this proceeding, and upon consideration of the record in this proceeding and the alleged lack of authority of the Commission to revisit this tariff, the Commission believes that approval of ComEd's proposal without such a modification would not be an appropriate result. This proposed modification will not eliminate any of the purported benefits which ComEd attributes to proposed Rider PPO-MI. In addition, any customer that does not benefit from Rider PPO-MI will have the option to utilize Rider PPO-NFF. If it wishes, ComEd may attempt to demonstrate that Rider PPO-MI should be adopted on a longer term basis in a proceeding with a less restrictive schedule that will provide the opportunity for a more comprehensive review of the proposal. (HEPO at 25)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this Brief on Exceptions of Peoples Energy Services Corporation by electronic mail and by placing a copy thereof in the United States mail with first class postage affixed, addressed to each of the parties of record in Ill.C.C. Docket No. 00-0259.

Dated at Chicago, Illinois this 24th day of April 2000.

By

A handwritten signature in black ink, reading "Timothy P. Walsh", is written over a horizontal line. The signature is cursive and fluid.

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